



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Woods Chiropractic

Respondent Name

East Texas Educational Insurance Association

MFDR Tracking Number

M4-16-0580-01

Carrier's Austin Representative

Box Number 17

MFDR Date Received

November 4, 2015

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: The submitted documentation did not include a position statement from the requestor for consideration in this dispute. Accordingly, this decision is based on the information available at the time of review.

Amount in Dispute: \$810.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "We received the first CMS1500 form on 4/14/15. Dates of Service were 10/20/14-12/31-14 which was denied for timely filing.

Dates of service 1/5/15-3/10/15 appear to need partial reimbursement... CPT code 98941 should have been reimbursed however, CPT code 97012, would have been denied due to lack of preauthorization.

Our records reflect Date of Service 3/2/15 was processed correctly... Our records further reflect Date of Service 4/14/15 was processed correctly...

It is our position denial should be maintained for dates of service 10/13/14-12/31/14, due to timely filing. We also feel denial would apply to all charges incurred for CPT 97012, due to lack of preauthorization, as required by TAC §134.600(p)(5)."

Response Submitted by: Claims Administrative Services, Inc.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 13, 2014 – April 14, 2015	Evaluation & Management, established patient (99203-25) Radiologic Examination (72080) Chiropractic Manipulation (98941) Physical Therapy (97012)	\$810.00	\$80.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.20 sets out medical bill submission procedures for health care providers.
3. 28 Texas Administrative Code §137.100 establishes the treatment guidelines.
4. 28 Texas Administrative Code §134.600 sets out the preauthorization procedures.
5. 28 Texas Administrative Code §102.4 establishes rules for non-Commission communications.
6. 28 Texas Administrative Code §134.203 sets out the fee guidelines for professional medical services.
7. Texas Labor Code §408.027 sets out provisions related to payment of health care providers.
8. Texas Labor Code §408.0272 provides for certain exceptions to untimely submission of a medical claim.
9. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 29 – The time limit for filing has expired.
 - 18 – Exact duplicate claim/service.
 - 197 – Precertification/authorization/notification absent.

Issues

1. What are the services in dispute?
2. Did the requestor waive the right to medical fee dispute resolution for dates of service October 13, 2014 through October 21, 2014?
3. What is the timely filing deadline applicable to the medical bills for the services in dispute?
4. Did the requestor forfeit the right to reimbursement for the services in dispute?
5. Does a preauthorization issue exist for CPT code 97012 on dates of service January 5, 7, 12, and 15, 2015?
6. Is the insurance carrier's denial of payment based on preauthorization for CPT code 97012 for dates of service March 2 and 10, 2015; and April 14, 2015 supported?
7. What is the maximum allowable reimbursement for the disputed services?
8. Is the requestor entitled to additional reimbursement?

Findings

1. The Medical Fee Dispute Resolution Request (DWC060) included the following procedure codes and dates of service:
 - Procedure codes 99203-25 and 72080
 - October 13, 2014
 - Procedure codes 98941 and 97012
 - October 13, 2014
 - October 14, 2014
 - October 15, 2014
 - October 16, 2014
 - October 20, 2014
 - October 21, 2014
 - November 12, 2014
 - November 13, 2014
 - November 18, 2014
 - November 20, 2014
 - December 8, 2014
 - December 11, 2014
 - December 15, 2014
 - December 18, 2014
 - December 30, 2014

- December 31, 2014
- January 5, 2015
- January 7, 2015
- January 12, 2015
- January 15, 2015
- March 2, 2015
- March 10, 2015
- April 14, 2015

Review of the submitted documentation finds the following:

- Per Explanations of Benefits dated May 13, 2015, procedure code 98941 for dates of service March 2, 2015 and April 14, 2015 was reimbursed at the requested amount.
- Per Explanation of Benefits dated November 17, 2015, procedure code 98941 for dates of service January 5, 7, 12, and 15, 2015 was paid at the requested amount.

Therefore, this procedure on these dates of service will not be considered for this dispute. This dispute will consider the remaining procedure codes and dates of service listed above.

2. 28 Texas Administrative Code §133.307(c)(1) states:

Timeliness. A requestor shall timely file the request with the division's MFDR Section or waive the right to MFDR. The division shall deem a request to be filed on the date the MFDR Section receives the request. A decision by the MFDR Section that a request was not timely filed is not a dismissal and may be appealed pursuant to subsection (g) of this section.

(A) A request for MFDR that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute.

The dates of the service in dispute include October 13, 14, 15, 16, 20, and 21, 2014. The request for medical fee dispute resolution was received in the Medical Fee Dispute Resolution (MFDR) Section on November 4, 2015. This date is later than one year after the dates of service in question. Review of the submitted documentation finds that the disputed services do not involve issues identified in §133.307(c)(1)(B). The Division concludes that the requestor has failed to timely file this dispute with the Division's MFDR Section; consequently, the requestor has waived the right to medical fee dispute resolution for these dates of service.

3. The insurance carrier denied disputed dates of service November 12, 2014 through January 15, 2015 with claim adjustment reason codes: 29 – "THE TIME LIMIT FOR FILING HAS EXPIRED." 28 Texas Administrative Code §133.20(b) requires that, except as provided in Texas Labor Code §408.0272, "a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided." Texas Labor Code §408.0272(b) provides that:

Notwithstanding Section 408.027, a health care provider who fails to timely submit a claim for payment to the insurance carrier under Section 408.027(a) does not forfeit the provider's right to reimbursement for that claim for payment solely for failure to submit a timely claim if:

- (1) the provider submits proof satisfactory to the commissioner that the provider, within the period prescribed by Section 408.027(a), erroneously filed for reimbursement with:
 - (A) an insurer that issues a policy of group accident and health insurance under which the injured employee is a covered insured;
 - (B) a health maintenance organization that issues an evidence of coverage under which the injured employee is a covered enrollee; or
 - (C) a workers' compensation insurance carrier other than the insurance carrier liable for the payment of benefits under this title; or
- (2) the commissioner determines that the failure resulted from a catastrophic event that substantially interfered with the normal business operations of the provider.

No documentation was found to support that any of the exceptions described in Texas Labor Code §408.0272 apply to the services in this dispute related to this denial. For that reason, the health care provider was required to submit the medical bills not later than 95 days after the date the disputed services were provided.

4. Texas Labor Code §408.027(a) states that “Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment.” 28 Texas Administrative Code §102.4(h) states that:

Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on:

- (1) the date received, if sent by fax, personal delivery or electronic transmission or,
- (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday.

Review of the submitted information finds that medical bills for disputed dates of service November 12, 13, 18, and 20, 2014; and December 8, 11, 15, 18, 30, and 31, 2014 were received by the insurance carrier on April 14, 2015. Five days prior to this date is Thursday, April 9, 2015, which is greater than 95 days from the date the services were provided. Consequently, the requestor has forfeited the right to reimbursement for these dates of service due to untimely submission of the medical bill, pursuant to Texas Labor Code §408.027(a).

Review of the submitted information finds that medical bills for disputed dates of service January 5, 7, 12, and 15, 2015; and March 2 and 10, 2015 were received by the insurance carrier on April 14, 2015. Five days prior to this date is Thursday, April 9, 2015, which is 95 days or less from the date the services were provided. Therefore, the requestor has not forfeited the right reimbursement for these dates of service due to untimely submission of the medical bill, pursuant to Texas Labor Code §408.027(a).

5. The insurance carrier argued in their position statement that CPT code 97012 for dates of service January 5, 7, 12, and 15, 2015 “would have been denied due to lack of preauthorization.” 28 Texas Administrative Code §133.307(d)(2)(F) states, in relevant part, “The response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review...”

Review of the submitted documentation finds that CPT code 97012 for these dates of service was not denied for lack of preauthorization prior to the date the request for MFDR was filed with the division. Therefore, the Division finds that a preauthorization issue does not exist for this service on the dates of service in question.

6. The insurance carrier denied CPT code 97012 for dates of service March 2 and 10, 2015; and April 14, 2015 with claim adjustment reason code 197 – “PERCERTIFICATION/AUTHORIZATION/NOTIFICATION ABSENT.”

28 Texas Administrative Code §134.600(p)(5) requires preauthorization of

physical and occupational therapy services, which includes those services listed in the Healthcare Common Procedure Coding System (HCPCS) at the following levels:

- (A) Level I code range for Physical Medicine and Rehabilitation, but limited to:
 - (i) Modalities, both supervised and constant attendance;
 - (ii) Therapeutic procedures, excluding work hardening and work conditioning;
 - (iii) Orthotics/Prosthetics Management;
 - (iv) Other procedures, limited to the unlisted physical medicine and rehabilitation procedure code
- (B) Level II temporary code(s) for physical and occupational therapy services provided in a home setting;
- (C) except for the first six visits of physical or occupational therapy following the evaluation when such treatment is rendered within the first two weeks immediately following:
 - (i) the date of injury; or
 - (ii) a surgical intervention previously preauthorized by the insurance carrier;

Submitted documentation does not support that the disputed services were performed within the first six weeks following the date of injury or a surgical intervention. For this reason, CPT code 97012 required preauthorization. The insurance carrier’s denial reason for these dates of service is supported. Additional reimbursement cannot be recommended for procedure code 97012 for these dates of service.

7. 28 Texas Administrative Code §134.203 (c) states,

To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

- (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83...
- (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year...

The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the Division conversion factor. The Division conversion factor for 2015 is \$56.20.

For CPT code 97012 on January 5, 2015, the relative value (RVU) for work of 0.25 multiplied by the geographic practice cost index (GPCI) for work of 1.000 is 0.250000. The practice expense (PE) RVU of 0.19 multiplied by the PE GPCI of 0.920 is 0.174800. The malpractice (MP) RVU of 0.01 multiplied by the MP GPCI of 0.822 is 0.008220. The sum of 0.433020 is multiplied by the Division conversion factor of \$56.20 for a MAR of \$24.34.

For CPT code 97012 on January 7, 2015, the RVU for work of 0.25 multiplied by the GPCI for work of 1.000 is 0.250000. The PE RVU of 0.19 multiplied by the PE GPCI of 0.920 is 0.174800. The MP RVU of 0.01 multiplied by the MP GPCI of 0.822 is 0.008220. The sum of 0.433020 is multiplied by the Division conversion factor of \$56.20 for a MAR of \$24.34.

For CPT code 97012 on January 12, 2015, the RVU for work of 0.25 multiplied by the GPCI for work of 1.000 is 0.250000. The PE RVU of 0.19 multiplied by the PE GPCI of 0.920 is 0.174800. The MP RVU of 0.01 multiplied by the MP GPCI of 0.822 is 0.008220. The sum of 0.433020 is multiplied by the Division conversion factor of \$56.20 for a MAR of \$24.34.

For CPT code 97012 on January 15, 2015, the RVU for work of 0.25 multiplied by the GPCI for work of 1.000 is 0.250000. The PE RVU of 0.19 multiplied by the PE GPCI of 0.920 is 0.174800. The MP RVU of 0.01 multiplied by the MP GPCI of 0.822 is 0.008220. The sum of 0.433020 is multiplied by the Division conversion factor of \$56.20 for a MAR of \$24.34.

8. The total MAR for the disputed services is \$97.36. The requestor is seeking \$80.00 for these services on the dates in question. The insurance carrier paid \$0.00. An additional reimbursement of \$80.00 is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$80.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$80.00 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	_____	_____
Signature	Laurie Garnes Medical Fee Dispute Resolution Officer	November 30, 2015 Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.